



## STATE OF IDAHO

### OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER *Defending Zealously, Advancing Fairness, and Advocating with Integrity.*

November 22, 2019

State of Idaho  
Division of Financial Management  
304 N. 8<sup>th</sup> Street #325  
Boise, ID 83720

#### **RE: SAPD Budgetary Adjustments – FY2020; FY2021**

For Fiscal Year (“FY”) 2020, the State Appellate Public Defender (“SAPD”) has a total general funds budget of \$3,024,400. The SAPD is able to meet the 1% early reversion of its budget (\$30,244) by removing those funds from its appellate case conflict budget, PCA 20001 – Conflict (“AU Conflict Budget”). The SAPD is annually appropriated \$207,500 to pay conflict attorneys to handle those cases where the SAPD has a conflict of interest. As of November 1, 2019, the SAPD is already \$28,802.50 under budget in its AU Conflict Budget. Based upon my review of the number and complexity of cases conflicted out of the office, the SAPD will have sufficient funds in its appellate conflict budget to cover the 1% rescission from its FY2020 appropriation.

For FY2021, the SAPD requested a total general funds budget of \$3,015,100. Governor Little has required agencies to identify a 2% base reduction from that budget request, which would amount to a \$60,302 reduction. The base reduction consists of a \$49,272 reduction in personnel costs (“PC”), \$4,982 reduction in operating expenses (“OE”), and \$6,048 reduction in funds from the SAPD’s Capital Litigation Unit Budget (“CLU Budget) and AU Conflict Budget. Without any additional flexibility to move funds from its AU Conflicts Budget, the SAPD will have some difficulty in continuing to deliver the same level of constitutionally effective representation to its clients. Removing \$49,272 from PC will negatively affect the SAPD’s ability to retain qualified attorneys while still keeping workloads at an acceptable level. Likewise, removing just under \$5,000 from OE could also hamper the SAPD’s ability to meet its financial obligations and travel costs.

However, if the SAPD is given flexibility to move money out of its AU Conflicts Budget to offset a portion of the reductions from PC and OE, the SAPD will not suffer any negative consequences from the 2% budgetary reduction. In the past three years, on only one occasion the SAPD has reverted less than \$60,302 from its AU Conflict Budget. In FY2017, due to a large number of first-degree murder cases that had to be conflicted out of the office, the SAPD only reverted \$35,900 of the \$207,500 appropriated monies. In FY2018, the SAPD reverted \$98,600, and in FY2019, the SAPD reverted \$124,100. The SAPD does not anticipate an unusually high number of cases it will have to conflict out in FY2021, nor do we expect a year similar to FY2017 as to the complexity of the cases sent out to conflict attorneys. In addition, the

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		FTP	PC	OE	CO	T/B	LS	Total
<b>Capital and Conflict Representation</b>								
0001-00	Gen	0.00	0	(30,200)	0	0	0	(30,200)
<b>Total:</b>		0.00	0	(30,200)	0	0	0	(30,200)
<b>Totals By Fund:</b>								
General								
0001-00	Gen	0.00	0	(30,200)	0	0	0	(30,200)
<b>0.00</b>			<b>0</b>	<b>(30,200)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>(30,200)</b>
<b>Division Total:</b>		0.00	0	(30,200)	0	0	0	(30,200)

# State Appellate Public Defender

Analyst: Hoskins

Budget by Decision Unit	FTP	General	Dedicated	Federal	Total
<b>2% General Fund Reduction &amp; Exemptions</b>					
Agency Request	0.00	0	0	0	0
<i>The Governor recommends a 2% ongoing General Fund reduction across all object codes. To accomplish this reduction the Governor also recommends an exemption from Section 67-3511 (1), (2), and (3), Idaho Code, allowing unlimited transfers of all appropriated moneys among personnel costs, operating expenditures, capital outlay, and trustee and benefit payments, as well as between budgeted programs. This exemption requires legislative approval.</i>					
Governor's Recommendation	0.00	(60,300)	0	0	(60,300)
<b>FY 2021 Total</b>					
Agency Request	24.00	3,106,900	0	0	3,106,900
Governor's Recommendation	25.00	3,161,700	0	0	3,161,700
Agency Request					
Change from Original App	0.00	82,500	0	0	82,500
% Change from Original App	0.0%	2.7%			2.7%
Governor's Recommendation					
Change from Original App	1.00	137,300	0	0	137,300
% Change from Original App	4.2%	4.5%			4.5%

# State Appellate Public Defender

Analyst: Hoskins

Budget by Decision Unit	FTP	General	Dedicated	Federal	Total
<b>Inflationary Adjustments</b>					
Inflationary adjustments include \$100 for general services (Idaho State Bar dues); \$1,200 for professional services (legal research and case management software); \$300 for administrative services (copier and printer maintenance); \$13,100 for computer services (IT services); and \$1,700 for rentals and operating leases (office space lease).					
Agency Request	0.00	16,400	0	0	16,400
Governor's Recommendation	0.00	16,400	0	0	16,400
<b>Statewide Cost Allocation</b>					
This request includes adjustments to recover the cost of services provided by other agencies in accordance with federal and state guidelines on cost allocation. Risk management costs will increase by \$200 and State Controller fees will increase by \$1,600, for a net increase of \$1,800.					
Agency Request	0.00	1,800	0	0	1,800
Governor's Recommendation	0.00	1,800	0	0	1,800
<b>Change in Employee Compensation</b>					
For calculation purposes, agencies were directed to include the cost of a 1% salary increase for permanent and temporary employees.					
Agency Request	0.00	21,800	0	0	21,800
The Governor recommends a 2% increase in employee compensation, distributed on merit. He does not recommend a compensation increase for group and temporary positions.					
Governor's Recommendation	0.00	43,300	0	0	43,300
<b>FY 2021 Program Maintenance</b>					
Agency Request	24.00	3,105,800	0	0	3,105,800
Governor's Recommendation	24.00	3,063,100	0	0	3,063,100
<b>1. Security Software</b>			<b>Office of the State Appellate Public Defender</b>		
The agency requests \$1,100 in ongoing operating expenditures from the General Fund for the purchase and licensing of software that prevents external access to its case records, attorney work product, and privileged communications. More specifically, the software is an IT asset management software solution that monitors the IT hardware that is connecting to the server and network, and maintains an inventory of all authorized software applications. According to the agency, the software will help it comply with Executive Order No. 2017-02, in that it will satisfy multiple critical security controls of the Center for Internet Security. Because the SAPD has an adversarial relationship with the state for purposes of the appeals in which it provides legal representation, ethical obligations require it to have its own servers and IT services.					
Agency Request	0.00	1,100	0	0	1,100
Governor's Recommendation	0.00	1,100	0	0	1,100
<b>2. Deputy SAPD</b>			<b>Office of the State Appellate Public Defender</b>		
Agency Request	0.00	0	0	0	0
The Governor recommends 1.00 FTP and \$157,400 from the General Fund for a deputy SAPD to handle juvenile and misdemeanor appeals from the district court to the Idaho Court of Appeals and the Idaho Supreme Court. Of the amount recommended, \$76,100 is in ongoing personnel costs for salary and benefits; \$8,800 is in ongoing operating expenditures for training, licensing, access to legal research, parking, and computer costs; \$1,500 is in onetime operating expenditures for software licensing; and \$71,000 is in onetime capital outlay for an office buildout (\$65,000), computer equipment, and office furniture. Separate legislation will be required.					
Governor's Recommendation	1.00	157,400	0	0	157,400
<b>OITS 1 – Operating Costs</b>					
Agency Request	0.00	0	0	0	0
The Governor recommends this agency's share of ongoing funding to pay the Office of Information Technology Services for security software and data center office space located at the Chinden Campus.					
Governor's Recommendation	0.00	400	0	0	400

FY 2021 Idaho Legislative Budget Book

5 - 133

Self-Governing Agencies  
State Appellate Public Defender

# State Appellate Public Defender

Analyst: Hoskins

Budget by Decision Unit	FTP	General	Dedicated	Federal	Total
FY 2020 Original Appropriation					
The Legislature funded one line item for FY 2020 that included \$2,600 for cybersecurity.					
	24.00	3,024,400	0	0	3,024,400
1. Extraordinary Capital Costs			Capital and Conflict Representation		
The agency requests \$140,000 in onetime operating expenditures from the General Fund to pay for the extraordinary representation costs of its death penalty caseload. Currently, the agency has an ongoing appropriation of \$94,900 for extraordinary representation costs in post-conviction relief proceedings for defendants who have been sentenced to death. However, the agency expects an unusually large capital caseload during FY 2020, for which additional funds are necessary. This caseload includes Erick Hall (evidentiary hearing and conflict counsel); Jonathan Renfro (evidentiary hearing); and Azad Abdullah (conflict counsel). Any funds not used for this specific purpose will revert to the General Fund, as required by law.					
Agency Request	0.00	140,000	0	0	140,000
Governor's Recommendation	0.00	140,000	0	0	140,000
Sick Leave Rate Reduction					
Agency Request	0.00	0	0	0	0
The Governor recommends a six-month reduction of funding for employers who contribute to the PERSI-managed sick leave plan. This reduction will begin to draw down the reserve balance, which has grown significantly during the past several years.					
Governor's Recommendation	0.00	(5,800)	0	0	(5,800)
1% Onetime General Fund Reduction					
Agency Request	0.00	0	0	0	0
The Governor recommends a onetime 1% General Fund rescission.					
Governor's Recommendation	0.00	(30,200)	0	0	(30,200)
FY 2020 Total Appropriation					
Agency Request	24.00	3,164,400	0	0	3,164,400
Governor's Recommendation	24.00	3,128,400	0	0	3,128,400
Removal of Onetime Expenditures					
This decision unit removes onetime amounts appropriated in FY 2020 for replacement items.					
Agency Request	0.00	(149,300)	0	0	(149,300)
Governor's Recommendation	0.00	(149,300)	0	0	(149,300)
Restore Ongoing Rescissions					
Agency Request	0.00	0	0	0	0
The Governor recommends restoration of the 1% General Fund rescission and sick leave rate reduction.					
Governor's Recommendation	0.00	36,000	0	0	36,000
FY 2021 Base					
Agency Request	24.00	3,015,100	0	0	3,015,100
Governor's Recommendation	24.00	3,015,100	0	0	3,015,100
Benefit Costs					
Employer-paid benefit changes include an 18.9% increase (or \$2,200 per eligible FTP) for health insurance, bringing the total appropriation to \$13,850 per FTP. Also included are a one-year elimination of the unemployment insurance rate, a restoration of the Division of Human Resources rate, and adjustments to workers' compensation that vary by agency.					
Agency Request	0.00	50,700	0	0	50,700
The Governor recommends no increase for health insurance due to fewer claims than expected and changes to federal tax policies; a one-year elimination of the sick leave rate and the unemployment insurance rate; restoration of the Division of Human Resources rate; and adjustments for workers' compensation rates.					
Governor's Recommendation	0.00	(13,500)	0	0	(13,500)

# State Appellate Public Defender

Analyst: Hoskins

## Comparative Summary

Decision Unit	Agency Request			Governor's Rec		
	FTP	General	Total	FTP	General	Total
<b>FY 2020 Original Appropriation</b>	<b>24.00</b>	<b>3,024,400</b>	<b>3,024,400</b>	<b>24.00</b>	<b>3,024,400</b>	<b>3,024,400</b>
1. Extraordinary Capital Costs	0.00	140,000	140,000	0.00	140,000	140,000
Sick Leave Rate Reduction	0.00	0	0	0.00	(5,800)	(5,800)
1% Onetime General Fund Reduction	0.00	0	0	0.00	(30,200)	(30,200)
<b>FY 2020 Total Appropriation</b>	<b>24.00</b>	<b>3,164,400</b>	<b>3,164,400</b>	<b>24.00</b>	<b>3,128,400</b>	<b>3,128,400</b>
Removal of Onetime Expenditures	0.00	(149,300)	(149,300)	0.00	(149,300)	(149,300)
Restore Ongoing Rescissions	0.00	0	0	0.00	36,000	36,000
<b>FY 2021 Base</b>	<b>24.00</b>	<b>3,015,100</b>	<b>3,015,100</b>	<b>24.00</b>	<b>3,015,100</b>	<b>3,015,100</b>
Benefit Costs	0.00	50,700	50,700	0.00	(13,500)	(13,500)
Inflationary Adjustments	0.00	16,400	16,400	0.00	16,400	16,400
Statewide Cost Allocation	0.00	1,800	1,800	0.00	1,800	1,800
Change in Employee Compensation	0.00	21,800	21,800	0.00	43,300	43,300
<b>FY 2021 Program Maintenance</b>	<b>24.00</b>	<b>3,105,800</b>	<b>3,105,800</b>	<b>24.00</b>	<b>3,063,100</b>	<b>3,063,100</b>
1. Security Software	0.00	1,100	1,100	0.00	1,100	1,100
2. Deputy SAPD	0.00	0	0	1.00	157,400	157,400
OITS 1 – Operating Costs	0.00	0	0	0.00	400	400
2% General Fund Reduction & Exemptions	0.00	0	0	0.00	(60,300)	(60,300)
<b>FY 2021 Total</b>	<b>24.00</b>	<b>3,106,900</b>	<b>3,106,900</b>	<b>25.00</b>	<b>3,161,700</b>	<b>3,161,700</b>
Change from Original Appropriation	0.00	82,500	82,500	1.00	137,300	137,300
% Change from Original Appropriation		2.7%	2.7%		4.5%	4.5%

# State Appellate Public Defender

Analyst: Hoskins

## FY 2019 Actual Expenditures by Division

			FTP	PC	OE	CO	T/B	LS	Total
0.30	FY 2019 Original Appropriation								
	0001-00	Gen	24.00	2,390,700	546,400	11,000	0	0	2,948,100
	Totals:		24.00	2,390,700	546,400	11,000	0	0	2,948,100
1.00	FY 2019 Total Appropriation								
	0001-00	Gen	24.00	2,390,700	546,400	11,000	0	0	2,948,100
	Totals:		24.00	2,390,700	546,400	11,000	0	0	2,948,100
1.21	Net Object Transfer								
	0001-00	Gen	0.00	(66,100)	60,000	6,100	0	0	0
	Totals:		0.00	(66,100)	60,000	6,100	0	0	0
1.61	Reverted Appropriation								
	0001-00	Gen	0.00	(20,800)	(201,300)	0	0	0	(222,100)
	Totals:		0.00	(20,800)	(201,300)	0	0	0	(222,100)
2.00	FY 2019 Actual Expenditures								
	0001-00	Gen	24.00	2,303,800	405,100	17,100	0	0	2,726,000
	General			2,303,800	405,100	17,100	0	0	2,726,000
	Totals:		24.00	2,303,800	405,100	17,100	0	0	2,726,000
Difference: Actual Expenditures minus Total Appropriation									
	0001-00	Gen		(86,900)	(141,300)	6,100	0	0	(222,100)
	General			(3.6%)	(25.9%)	55.5%	N/A	N/A	(7.5%)
	Difference From Total Approp			(86,900)	(141,300)	6,100	0	0	(222,100)
	Percent Diff From Total Approp			(3.6%)	(25.9%)	55.5%	N/A	N/A	(7.5%)

**Performance Measure Explanatory Notes**

In FY2019, the SAPD was appointed to 600 criminal appeals from the district court, which is about the same number of cases as in FY2018 (604). The SAPD's numbers are consistent with the number of felony criminal appeals filed in the Idaho Supreme Court. The average deputy's workload this past year was 51 units, which marks a decrease from this past fiscal year. The decrease is largely attributed to our ability to assign a portion of the direct appeals to a capital attorney for training purposes, and the complexity of the cases we received. While 51 units still exceeds the SAPD's goal to average 35 workload units per attorney, SAPD attorneys are given a weekly opportunity to refuse new cases if they believe their current workload is too high. SAPD attorneys will routinely refuse to accept new cases until they believe they are able to meet their constitutional obligations to their individual clients.

Over the past two years, SAPD attorneys were able to file the initial Appellant's brief on appeal over 90% of the time without having to obtain more than a second extension from the Idaho Supreme Court. This is a marked decrease from FY2015 and FY2016 where SAPD attorneys obtained more than a second extension from the Court in 20% of the cases handled by the office. As to the CIS Controls, due to the nature of its work, the SAPD cannot be on the State server or behind the State's firewall and is legally required to contract with an agency independent from the State of Idaho for its IT services. The SAPD is diligently working with its IT provider to meet its cybersecurity obligations.

**For More Information Contact**

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Performance Measure		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>Goal 2</b>						
<i>Provide Services In An Efficient Manner</i>						
4. New contract cases assigned by fiscal year.	actual	2	0	0	8	-----
	target	0 Cases	0 Cases	0 Cases	0 Cases	0 Cases
5. All cases assigned within 21 days of receipt of the transcript and record such that objections to the record can be filed in the district court.	actual	92%	100%	100%	100%	-----
	target	100%	100%	100%	100%	100%
6. In FY2018, reduce the number of initial appellant's briefs filed on more than two extensions by 50% from FY 2017 levels.	actual	617/122	455/33	491/43	521/57	-----
	target	50% Reduction of Briefs filed on >2 Ext. from previous FY	50% Reduction of Briefs filed on >2 Ext. from previous FY	25% Reduction of Briefs filed on >2 Ext. from previous FY	25% Reduction of Briefs filed on >2 Ext. from previous FY	10% Reduction of Briefs Filed on >2 Ext. from previous FY
7. Reduce the average Appellant Unit attorneys' caseloads to an appropriate level of no more than 35 units per year.	actual	52.80 units	42.00 units	53.30 units	51.81 units	-----
	target	35.00 Unit Average	35.00 Unit Average	35.00 Unit Average	35.00 Unit Average	35.00 Unit Average
<b>Goal 3</b>						
<i>Collaborate With Other Entities To Improve Idaho's Criminal Justice System</i>						
8. Clarify the jurisdiction of the SAPD to handle post-conviction and habeas cases in which relief is granted, as well as representing indigent defendants in interlocutory appeals in felony cases.	actual	100%	N/A*	N/A*	N/A*	-----
	target	Amend Idaho Code § 19-870 to clarify jurisdiction of the SAPD				Amend Idaho Code § 19-840 to expand jurisdiction of the SAPD to handle juvenile and misdemeanor appeals from the district court
9. Collaborate with other entities to improve Idaho's criminal justice system.	actual	100%	100%	100%	100%	-----
	target	Participation in the ICJC, IPDC, the Grant Council, the Technology Committee, the Appellate Rules Committee, and the NAPD	Participation in the ICJC, IPDC, the Grant Council, the Technology Committee, the Appellate Rules Committee, and the NAPD	Participation in the ICJC, IPDC, the Grant Council, the Technology Committee, the Appellate Rules Committee, and the NAPD	Participation in the ICJC, IPDC, the Grant Council, the Technology Committee, the Appellate Rules Committee, and the NAPD	Participation in the ICJC, IPDC, the Grant Council, the Technology Committee, the Appellate Rules Committee, and the NAPD
10. Implement the first five (5) Center for Internet Security Critical Security Controls (CIS Controls) by June 30, 2018.	actual	N/A**	N/A**	Incomplete	Incomplete	-----
	target	N/A	N/A	Compliance with Executive Order 2017-02	Compliance with Executive Order 2017-02	Compliance with Executive Order 2017-02

\* This Performance measure was completed in FY2017 and will be replaced with a new Performance Measure for FY2021.

\*\*New Performance measure for FY 2018.

**Revenue and Expenditures**

Revenue	FY 2016	FY 2017	FY 2018	FY 2019
General Fund	\$2,451,300	\$2,636,600	\$2,889,200	\$2,948,100
Dedicated	\$25,000	\$25,000	\$0	\$0
<b>Total</b>	<b>\$2,476,300</b>	<b>\$2,661,600</b>	<b>\$2,889,200</b>	<b>\$2,948,100</b>
Expenditures	FY 2016	FY 2017	FY 2018	FY 2019
Personnel Costs	\$1,887,600	\$2,111,500	\$2,153,663	\$2,303,900
Operating Expenditures	\$350,800	\$550,100	\$322,589	\$405,100
Capital Outlay	\$9,600	\$0	\$12,511	\$17,100
Trustee/Benefit Payments	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$2,248,000</b>	<b>\$2,661,600</b>	<b>\$2,488,763</b>	<b>\$2,726,100</b>

**Profile of Cases Managed and/or Key Services Provided**

Cases Managed and/or Key Services Provided	FY 2016	FY 2017	FY 2018	FY 2019
Capital Cases Managed	4	3	4	3
Non-Capital Cases Opened	568	537	604	600

**Red Tape Reduction Act**

Each agency shall incorporate into its strategic plan a summary of how it will implement the Red Tape Reduction Act, including any associated goals, objectives, tasks, or performance targets. This information may be included as an addendum.

	As of July 1, 2019
Number of Chapters	N/A
Number of Words	N/A
Number of Restrictions	N/A

The SAPD does not have any administrative rules.

**FY 2019 Performance Highlights**

In FY2019, the United States Supreme Court granted a Writ of Certiorari in *Garza v. State of Idaho*. This is the first time the State Appellate Public Defender has had a Petition for Writ of Certiorari granted in an appeal handled by the office. On Certiorari, the United States Supreme Court reversed the district court's order denying Mr. Garza post-conviction relief. The United States Supreme Court's decision in *Garza* held that a defense attorney is required to file a Notice of Appeal, if requested to do so by his client, regardless of the circumstances of the plea of guilty.

**Part II – Performance Measures**

Performance Measure		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>Goal 1</b>						
<i>Provide Competent, Constitutionally Sufficient Representation to All SAPD Clients</i>						
1. No affirmed reprimands from the Office of Bar Counsel or the Idaho Supreme Court.	actual	0	0	0	0	-----
	target	No Affirmed Reprimands	No Affirmed Reprimands	No Affirmed Reprimands	No Affirmed Reprimands	No Affirmed Reprimands
2. No affirmed findings of ineffective assistance of counsel against an SAPD attorney.	actual	0	0	0	0	-----
	target	No Affirmed Findings	No Affirmed Findings	No Affirmed Findings	No Affirmed Findings	No Affirmed Findings
3. Continuing legal education credits for renewal of licenses to practice law.	actual	100%	100%	100%	100%	-----
	target	100% License Renewal	100% License Renewal	100% License Renewal	100% License Renewal	100% License Renewal

## Part I – Agency Profile

### Agency Overview

The Office of the State Appellate Public Defender (SAPD) provides appellate representation to indigent persons who have been convicted of a felony in Idaho's district courts. The SAPD also provides appellate representation to petitioners in state felony post-conviction and habeas corpus cases. In capital cases, where a defendant has been sentenced to death, the SAPD provides district court representation for post-conviction cases, as well as representation on appeal in both the direct appeal from the judgment of conviction and the appeal from the denial of the post-conviction petition.

On November 22, 2016, Governor Otter appointed Mr. Fredericksen to the position of State Appellate Public Defender. Mr. Fredericksen was reappointed to the position of State Appellate Public Defender on August 1, 2018. As of July 1, 2019, the office has 24 full-time employees, including the agency head. The Capital Litigation Unit includes three attorneys, a mitigation specialist, an investigator, and one administrative assistant. The Appellate Unit has twelve staff attorneys and three legal assistants. There is also an office administrator and receptionist. The office is located at 322 East Front Street, Suite 570, Boise, Idaho.

The SAPD must provide effective assistance of counsel to its clients and timely process appeals, as mandated by both the United States and Idaho Constitutions, as well as by Idaho statutes and court rules. Ethically, in its casework the SAPD must serve, first and foremost, the best interests of its clients. The SAPD is also mindful of relevant constituent groups and the legislative goal of reducing the financial burden on Idaho counties previously caused by the extraordinary cost of legal representation of indigent defendants on appeal. The SAPD is additionally committed to strengthening Idaho's criminal justice system to ensure it is both efficient and effective for SAPD clients.

The SAPD's Mission: Defending zealously, advancing fairness, and advocating with integrity.

The SAPD's Vision: A better Idaho where the legal system treats each person with fairness and dignity.

### Core Functions/Idaho Code

The right of a defendant to representation by an attorney in a felony criminal case is a core value in Idaho, dating back to the days of the Idaho Territory. The Revised Statutes of Idaho, dated 1884, stated that if a defendant "desires and is unable to employ counsel, the court must assign counsel to defend him." Years later, the United States Supreme Court recognized, in *Alabama v. Powell*, 287 U.S. 45, 68-69 (1932), that the basic fairness required by the United States Constitution meant that indigent defendants facing capital charges had the right to assistance of counsel. More than thirty years later, in *Gideon v. Wainwright*, 372 U.S. 335 (1963), the Supreme Court ruled that states have a constitutional obligation under the Sixth and Fourteenth Amendments to the U.S. Constitution to provide trial counsel to non-capital indigent defendants facing a loss of liberty. Finally, in *Douglas v. California*, 372 U.S. 353 (1963), the Court found that an indigent defendant is entitled to the assistance of counsel in a first appeal granted as a matter of right from a criminal conviction.

Even absent the constitutional requirements for counsel, Idaho continues to adhere to the core value of ensuring that criminal defendants facing a loss of liberty are represented by counsel "to the same extent as a person having his own counsel is so entitled." I.C. § 19-852. Similarly, in accordance with Idaho Criminal Rule 44.2, immediately after the imposition of the death penalty, the court must appoint at least one lawyer to represent the defendant for purposes of seeking post-conviction relief pursuant to Idaho Code §19-2719.

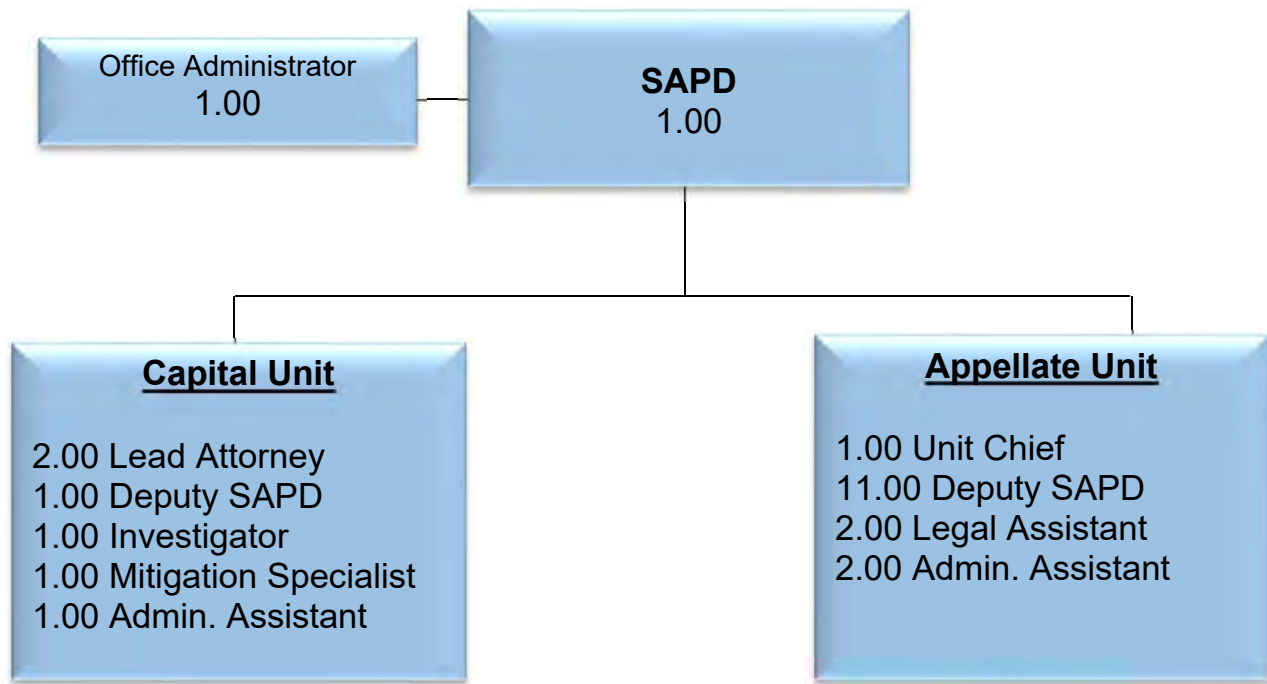
The legislature recognized that the cost of providing appellate representation was an extraordinary burden on the counties of Idaho. "In order to reduce this burden, provide competent counsel but avoid paying high hourly rates to independent counsel to represent indigent defendants in appellate proceedings," the legislature created the SAPD. See I.C. § 19-868. The duties of the SAPD are enumerated in I.C. §19-868 through §19-872.

# State Appellate Public Defender

## Agency Profile

Analyst: Hoskins

### Organizational Chart



**24.00 FTP**

0.00 Vacant as of November 1, 2019

Performance Report:

<https://dfm.idaho.gov/publications/bb/perfreport/>

Audit(s):

N/A

# State Appellate Public Defender

Analyst: Hoskins

## Historical Summary

<b>OPERATING BUDGET</b>	<b>FY 2019 Total App</b>	<b>FY 2019 Actual</b>	<b>FY 2020 Approp</b>	<b>FY 2021 Request</b>	<b>FY 2021 Gov Rec</b>
<b>BY PROGRAM</b>					
State Appellate Public Defender	2,645,700	2,615,600	2,722,000	2,804,500	2,865,300
Capital and Conflict Representation	302,400	110,400	302,400	302,400	296,400
<b>Total:</b>	<b>2,948,100</b>	<b>2,726,000</b>	<b>3,024,400</b>	<b>3,106,900</b>	<b>3,161,700</b>
<b>BY FUND CATEGORY</b>					
General	2,948,100	2,726,000	3,024,400	3,106,900	3,161,700
Percent Change:		(7.5%)	10.9%	2.7%	4.5%
<b>BY OBJECT OF EXPENDITURE</b>					
Personnel Costs	2,390,700	2,303,800	2,463,600	2,536,100	2,520,200
Operating Expenditures	546,400	405,100	551,500	570,800	570,500
Capital Outlay	11,000	17,100	9,300	0	71,000
<b>Total:</b>	<b>2,948,100</b>	<b>2,726,000</b>	<b>3,024,400</b>	<b>3,106,900</b>	<b>3,161,700</b>
Full-Time Positions (FTP)	24.00	24.00	24.00	24.00	25.00

## Division Description

Pursuant to Section 19-870(1), Idaho Code, the State Appellate Public Defender provides legal representation to indigent persons in the following areas:

- 1) Appeals from convictions in district court;
- 2) Appeals from the district court in post-conviction relief proceedings brought pursuant to the Uniform Post-Conviction Procedure Act;
- 3) Appeals from the district court in habeas corpus proceedings; and
- 4) Post-conviction relief proceedings in capital cases.

The services of the State Appellate Public Defender are only available to those counties participating in the Capital Crimes Defense Fund (CCDF) established pursuant to Section 19-863A, Idaho Code. Currently, all 44 counties participate in the CCDF.

There are two budgeted programs within this division:

The Office of the State Appellate Public Defender Program accounts for the general operating, personnel, and capital outlay costs of the office.

The Capital and Conflict Representation Program accounts solely for (a) the cost of outside counsel for noncapital appeals in which a conflict of interest is identified; and (b) extraordinary litigation costs directly related to the provision of representation in capital cases including, but not limited to, consultation with experts; travel, lodging, and per diem for expert and lay witnesses; depositions; investigation; employee travel associated with witness interviews; court reporting and transcription services; expert witness fees; outside counsel in the event of a conflict of interest; and preparation of trial exhibits. Any remaining unexpended and unencumbered amounts not used in this program revert to the General Fund.